

Notice of Allowability	Application No.	Applicant(s)	
	09/684,949	D'SOUZA, WINAND	
	Examiner	Art Unit	
Stephen M. D'Agosta		2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to amendment received 3-10-2006.
2. The allowed claim(s) is/are 1-12 and 14-30.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

DETAILED ACTION***Response to Amendment***

The applicant's amendment, received 3-10-2006, overcomes the examiner's prior art rejection. Hence claims 1-12, 14-30 are allowed. Claim 13 previously cancelled.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

1. The applicant's arguments are persuasive as to the amended changes being novel over the prior art of record:

a. "...Applicant provides that the Hawker references (U.S. 6,002,949), disclose a wireless terminal that provides handset and hands-free modes with the use of a single transducer 20. The transducer is mounted within an enclosure having front 30 and back 32 chambers separated by a partition 28. The partition 28 separating the front and back enclosures contains internal vents 42 which can be opened or closed depending upon the position of a shutter 44. When the terminal operates in handset mode, the shutter 44 is opened and vents 42 are uncovered. This allowed lower frequency components of the sound produced by the transducer 20 to "bleed" into the back chamber 32, thus reducing the relative amplitude of the lower frequencies presented to the user through vents 40. *Applicant submits that there is no disclosure or suggestion that the low frequency components of the sound are reduced by a physical path limitation in the acoustical audio path because opening the vents merely increases the physical dimensions of the acoustical audio path.*

Thus, Applicant submits that U.S. Patent 6,002,949 and similarly WO-97/471 17 do not disclose or suggest wherein the attenuation is caused by a physical path limitation of the second acoustical audio path between the transducer and the second outlet" as recited in amended Claims 1, 7, and 20..."

b. "...Similarly, Applicant submits that the Hawker references *fail to disclose or suggest any attenuation of the sound output by the transducer by restricting the acoustical audio path between the transducer and the outlet ports 40* (U.S. Patent 6,002,949) or 46 (WO-97/47117).."

c. "...Thus, Applicant submits that U.S. Patent 6,002,949 and WO-97/471 17 *do not disclose or suggest wherein the attenuation means restricts the second acoustical audio path* as recited in amended Claim 18. In U.S. Patent 6,002,949, the transducer 20 is mounted on the partition 28, adjacent an aperture 34. The aperture 34 allows sound to be passed from the transducer 20 into the front chamber 30 for egress through apertures 40 in handset mode. The transducer is positioned at the opposite side of the back cavity 32 to the hands-free ports 48 and is, therefore, remote from the hands-free ports 48. There is no disclosure or suggestion in U.S. Patent 6,002,949, or in WO-97/47117, of the transducer being located adjacent the first outlet for egress of an acoustic signal when in a loudspeaker mode as recited in amended Claims 1, 7, and 18..."

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d. "...Further, Applicant submits that there is nothing disclosed or suggested in the Hawker references that would motivate a person skilled in the art to modify the teachings of either of the Hawker references to fall within the scope of the present invention as claimed. Rather, the Hawker references teach away from the claimed invention. Applicant also submits that there is no motivation to modify either of the Hawker references to provide attenuation of the acoustical audio path by providing a physical path limitation or a restricted audio path in earpiece mode, and, rather, that the Hawker references teach away from this aspect of the claimed invention. For example, U.S. Patent 6,002,949 teaches that in the handset mode, the vents 42 are opened to provide a less restricted path for the sound. Modifying U.S. Patent 6,002,949 to provide a physical path limitation or a restricted audio path would be against the teachings of the reference. Similarly, Applicant submits that there is no motivation to modify U.S. Patent 6,002,949 to locate the transducer adjacent to the loudspeaker outlet because if the transducer was placed adjacent to ports 48, the vents 42 would be obsolete and not function as intended for sound to "bleed" into the back chamber 32. The vents 42 would, therefore, not attenuate the acoustic signal. Modifying U.S. Patent 6,002,949 to locate the transducer adjacent to ports 48 would, therefore, be contrary to the teachings of the reference..."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

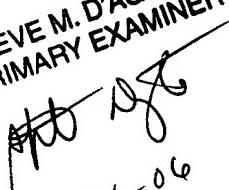
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

STEVE M. D'AGOSTA
PRIMARY EXAMINER

3-21-06